

# MEMORANDUM

## *National Labor Relations Board*

January 2, 1996

To: All Regional Directors

From: B. Allan Benson  
Acting Associate General Counsel

Subject: Modification of Agency Shutdown Plan

Last week, the Agency submitted a request to the Office of Management and Budget for expanded authority to utilize staff to process emergency situations. It had become apparent that the unexpected long duration of the shutdown had made it impossible for the Agency to address emergency situations under the staffing restraints of our original plan. In particular, numerous potential and decided cases warranting 10(l) and 10(j) relief were pending in the Regions and in Washington without action. By their very nature, these cases which will result in irreparable harm to property absent prompt court action, are emergency cases. It had also come to our attention that Respondents were flaunting the law by ignoring Board Orders and Court Orders, and by taking retaliatory actions, because of their view that the government was powerless to enforce the law.

We were advised today that OMB has approved our request. Thus, we are authorized emergency staff to monitor situations such as these, to process existing cases which may result in irreparable harm, and to enforce existing Board and Court Orders. As a first step, you were authorized this morning to have at least one manager on duty in each Regional Office. Further, you were authorized to have your mail released by the Postal Service and to monitor the mail in order to identify and respond to these situations. In some of the larger offices, it may be necessary to have an additional staff member assist in this function. As to the Subregional and Resident Offices, it may not be necessary to have an ongoing presence, particularly for the smaller offices. However, at this time you are authorized to have the Resident Officer or Officer-in-Charge review the mail as described above and to do so periodically for the duration of the shutdown.

In addition, Regions are authorized to investigate **existing** ULP charges which you identify as cases potentially warranting injunctive relief. If a determination is made that injunctive relief is necessary, you are authorized to process a settlement of the case, prepare and file the necessary court papers for 10(l)'s, and prepare and submit recommendations for 10(j)'s. You are also authorized to settle or file the necessary papers for any 10(j) which has already been authorized.

As to the docketing and processing of **new** charges and petitions, we are not generally authorized to initiate new cases. However, if a charge is received, which appears to potentially warrant injunctive relief under 10(j) or 10(l), you should make pre-docketing telephonic inquiry of the charging party and ascertain sufficient information to determine whether the case is likely to warrant injunctive relief. If injunctive relief appears necessary, you should submit a fax to my attention detailing the relevant information and seeking authority to docket and process the case. Such decisions shall be made by the General Counsel.

We are also authorized to pursue non-compliance with Board and Court Orders. Therefore, you should follow-up on any allegations of non-compliance and prepare and submit recommendations for enforcement or contempt as appropriate.

Incurring obligations for travel during this time should be avoided if at all possible. Thus, investigations should be conducted in the Regional Office or telephonic if necessary. Efforts should be made to limit travel to such matters as court hearings for which there are no options. If you authorize essential travel to carry out these emergency activities, employees should be aware that no advance of funds is available. Employees may utilize government-issued American Express cards, or they will need to absorb the cost and seek later reimbursement.

Records are to be maintained by the Region reflecting any staff authorized to work during the shutdown under this emergency authorization. At a minimum, your records should reflect the employee, the dates and hours of work and a brief summary of the work assigned, including case reference as applicable.

Attached for your information is a copy of the submission to OMB which was approved. If you have any questions concerning this memorandum please give me a call at 202-273-2879. If I am not available, Joyce Van Horn will be able to route your call to someone on duty.

B. A. B.

Attachment